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MICHAEL RODAR, JR., CLERK

IN THE
Supreme Court of the United States
October Term, 1975

No. 75-562

ROSEBUD SIOUX TRIBE,
Petitioner,

v.

HONORABLE RICHARD KNEIP, ET AL.,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

**RESPONDENTS' OBJECTION TO MOTION FOR
LEAVE TO FILE BRIEF AMICUS CURIAE**

William J. Janklow
Attorney General for South Dakota

William F. Day, Jr.
Attorney for the Four Counties

Tom D. Tobin
Special Assistant Attorney General

Attorneys for Respondents

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Respondents hereby file objection to the motion by the Covelo Indian Community of the Round Valley Reservation for leave to file a brief *amicus curiae*. Respondents' objection is based on the following grounds:

1. Contrary to Rule 42(1), the brief *amicus curiae* was not submitted a reasonable time prior to the consideration of the Petition. Respondents filed the Brief for Respondents in Op-

position prior to December 1, 1975. Thereafter, the Office of the Clerk informed Respondents that the Petition was distributed to the Court for consideration approximately two weeks later. The brief *amicus curiae* was not received by Respondents until January 12, 1976. No reason for this untimely delay is set forth in the motion.

As a matter of record, Respondents have never objected to the *amicus curiae* participation of any responsible party in litigation of this nature if such participation was timely. When it is not timely, the undue delay is not only contrary to the Rules of this Court, but it also effectively precludes any response on the merits by Respondents. Although Counsel for *amicus curiae* had actual notice of the Petition before it was even filed and could therefore have filed a timely brief which would have allowed Respondents to respond, they did not choose to do so. Under these circumstances, Respondents were left with no alternative but to withhold consent.

2. In three years, over 1200 pages of documentation and argument were submitted to the courts below. The United States Government supported the position of the Tribe as *amicus curiae*. Counsel for Petitioner is a highly skilled and acknowledged Indian Claims Attorney. The 33-page Petition exhaustively deals with every aspect of the decision below that could even arguably merit attention. Moreover, in addition to this expertise, this Court has invited the Solicitor General to file another brief expressing the views of the United States. The brief *amicus curiae* concedes that at best there is only "a degree of similarity" between the statutes involved in certain pending litigation in Federal District Court in California and the Acts construed below. In this light and at this point in time, Respondents would therefore submit that another brief *amicus curiae* would unnecessarily distract both counsel and the Court from the specific issue actually involved.

For each and all of the foregoing reasons, the motion of the Covelo Indian Community of the Round Valley Reservation

Respectfully submitted,

William J. Janklow
Attorney General for South Dakota

William F. Day, Jr.
Attorney for the Four Counties

Tom D. Tobin
Special Assistant Attorney General

Attorneys for Respondents

January, 1976